IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18129 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANJIVKUMAR FULCHAND KAPOOR AND ANOTHER
Versus
THE DEPUTY COLLECTOR AND OTHERS

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Appearance :
MR RC KAKKAD for Petitioners.
MS NISHA PARIKH, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 31/07/2007

ORAL JUDGMENT

1. The petitioner has, invoking Article 226 of the Constitution, sought quashing of order dated 12-1-2007 by which his application for making a reference under the provisions of Section 32 B of the Bombay Stamp Act, 1958 (for short “the Act”) was rejected on the ground of delay. It was submitted that the petitioner was saddled with liability to pay additional

stamp duty and penalty by virtue of order dated 28-6-2000 which order was made under the provisions of Section 32 A of the Act.

2. Learned AGP, appearing for the respondents, fairly conceded that in making of aforesaid order dated 28-6-2000 serious procedural lapses were committed insofar as neither statutory notice nor the order was served upon the petitioner in accordance with the Rules. In such circumstances, the petitioner was required to be permitted to avail alternative remedy of seeking a reference under the provisions of Section 32 B of the Act, according to the submission of learned AGP.

3. Therefore, by consent, impugned order dated 12-1-2007, refusing to accept necessary deposit and entertain the application for reference, is set aside with the direction that the petitioner shall be permitted to deposit requisite amount and pay necessary fees with a request to make a reference and, if such an application is made on or before 31st August 2007, the Collector shall refer the case with requisite statement to the Chief Controlling Revenue Authority, which shall consider the reference on merits and in accordance with law, after affording to the petitioner an opportunity of being heard. Petition stands partly allowed and Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.Waghela, J.)

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